

QLDC Council
8 August 2019

Report for Agenda Item | Rīpoata moto e Rāraki take: 6

Department: Community Services

Title | Taitara: Right of Way and Underground Service Easements Associated with 434 Domain Road, Hawea

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to grant a right of way and underground services easements over Recreation Reserve (Section 32 Block IV Lower Hāwea SD) in favour the proprietors of 434 Domain Rd, Hāwea (Lot 1 DP 491433).

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. Approve right of way easement and underground service easements, over Recreation Reserve Section 32 Block IV Lower Hāwea SD subject to section 48(1) of the Reserves Act, to the proprietors of 434 Domain Rd, Hāwea (Lot 1 DP 491433) with easement to be registered under Lot 2 of the proposed subdivision plan (attachment B) subject to the following conditions:
 - a. Any works to be undertaken are to the specification and approval of Council's Engineers.
 - b. Certificate of adequate public liability cover to be held by those undertaking the associated work.
 - c. A comprehensive safety plan must be prepared and implemented, at the applicants cost, to ensure a safe environment is maintained around the subject site during duration of the associated works.
 - d. Reinstatement of the area to be completed by the applicant immediately following the works to the satisfaction of QLDC;
 - e. Within three (3) months of completion of the associated works the applicant is to provide QLDC with a surveyed easement and signed Deed of Easement; and
 - f. The fencing around the recreation reserve is removed.
3. Agree public notification of the intent to grant ROW and underground service easements as required by section 48(2) of the Reserves Act has been met for the reasons set out in this report;

4. Delegate authority to approve final terms and conditions of the easement and execution authority to the General Manager – Community Services; and
5. Delegate to exercise the Minister’s consent (under delegation from the Minister of Conservation) to granting of an easement to Queenstown Lakes District Council over Section 32 Block IV Lower Hāwea SD in favour of proposed Lot 2 of the proposed subdivision plan (attachment B).

Prepared by:

Reviewed and Authorised by:



Dan Cruickshank
Property Advisor - APL

5/05/2019



Aaron Burt
Senior Planner:
Parks & Reserves
5/07/2019



Thunes Cloete
Community Services
General Manager
5/07/2019

CONTEXT | HORPOAKI

Background

- 1 The proprietors of 434 Domain Rd, Hāwea, being S&T Hewson (herein known as the applicants) have occupied the property for a number of years. Historically, access from Domain Rd to the property has occurred via a sealed driveway over an area of Council recreation reserve. Over time the area has been incorporated into the property with landscaping and fencing. The context of the site and surrounds are illustrated in ATTACHMENT A.
- 2 The applicants wish to complete a two lot subdivision of the property and now request to formalise access over the area of recreation reserve to service proposed Lot 2 of the subdivision plan. A second driveway will be formed directly from the road for Lot 1 of the subdivision plan included as ATTACHMENT B.
- 3 A resource consent for the subdivision is currently being processed. Upon completion of the subdivision, the easements are to be registered against the newly created Lot 2 of the proposed subdivision plan.

Comment

- 4 The area of recreation reserve being considered is a 50m square triangular parcel of land that is not accessible to the public, because it is fenced into the property at 434 Domain Rd, Hāwea. It should be noted that the fence must be removed, and any fencing established along the legal property boundary of proposed Lot 2. The landscaping within the recreation reserve must also be removed, and the area instead sown in grass.
- 5 The proposed right of way will be over an existing sealed or gravel vehicle crossing to the proposed Lot 2 site.
- 6 Underground lateral connections to existing Council services are included in the request, and the application assumes underground services easements within the right of way easement might be necessary, albeit that the location of the services are not specifically identified. Establishment of any services will involve excavating a trench, and installing the new services before backfilling and reinstating the surface to its original condition.
- 7 By granting a right of way easement, the driveway will be formalised and the identified extent of reserve will enable access rights to the adjacent property. As mentioned, the existing fence will need to be removed, as only access rights are being considered, not an occupation which otherwise excludes the public. The reserve will need to be reinstated in grass throughout, excluding the formed accessway.
- 8 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a reserve. This consent is now delegated to Council and must be granted prior to the easement being lodged with LINZ. The intention to grant a right of way easement has been publicly notified with no submissions received by the public.

- 9 In accordance with Item 3 of QLDC's Easement Policy 2008, an Easement Fee for Right of Way Easement has been determined by an individual valuation determining the market value of the land of \$10,000 (ten thousand dollars) inclusive of GST. All other costs associated with surveying, consent, registration and legal fees will be at the cost of the applicant.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 10 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

- 11 Option 1 approve the easements.

Advantages:

- a. The easement will improve the management of the reserve and provide for the reinstatement of open grass area on reserve consistent with the rest of the reserve.
- b. The applicants can access their proposed Lot 2 site directly from the road.
- c. QLDC will receive an easement fee.

Disadvantages:

- a. An area of recreation reserve will contain a driveway.

- 12 Option 2 Decline the Easements

Advantages:

- a. An area of recreation reserve will not contain a private driveway

Disadvantages:

- a. An area of recreation reserve will not contain a private driveway
- b. Council will not receive an easement fee

- 13 Advice This report recommends Option 1 for addressing the matter because formalising the access will improve management of the reserve and provide for the removal of private plantings on the reserve.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 14 This matter is of medium significance, as determined by reference to the Council's [Significance and Engagement Policy](#) because it involves a Council recreation reserve, the impact of the decision however is minor.

- 15 The persons who are affected by or interested in this matter are the general public.
- 16 The easements have been publicly notified with no submissions received.
- 17 The Council has been engaged during the application for resource consent for the subdivision of the applicant's property.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 18 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a High inherent risk rating. This matter relates to this risk because a perpetual property right contained in the recreational reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving any easement.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 19 The applicant has paid an application fee and has agreed to pay for all legal consenting, LINZ and surveying costs to register the easement.
- 20 Council will receive an easement fee of \$10,000 including GST, in accordance with the Easement Policy 2008.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 21 The following Council policies, strategies and bylaws were considered:
 - Significance and Engagement Policy
 - Easement Policy 2008
 - There is no reserve management plan for this reserve
- 22 The recommended option is consistent with the principles set out in the named policy/policies.
- 23 This matter not included in the Ten Year Plan/Annual Plan

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

- 24 The recommended option:
 - Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses allowing the activity at no cost to Council and providing Right of Way easement to allow direct access to the subdivided lot from the road;
 - Can be implemented through current funding under the Ten Year Plan and Annual Plan;

- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Overview Plan
B	Easement Plan

ATTACHMENT A - OVERVIEW PLAN



Notes:
a. Data sourced from LINZ Data Service and licenced for re-use under Creative Commons Attribution 4.0 Licence
b. This plan has been prepared for discussion purposes only. Areas and measurements are subject to LINZ approved cadastral survey and are likely to vary from those shown herein.

Plan Name:

**434 Domain Rd, Hawea
Easements**

Date: 11/10/2018
Version: A
Sheet 1
Drawn By: ER

Legend

-  Easement Area
-  Primary Land Parcels

Prepared By:

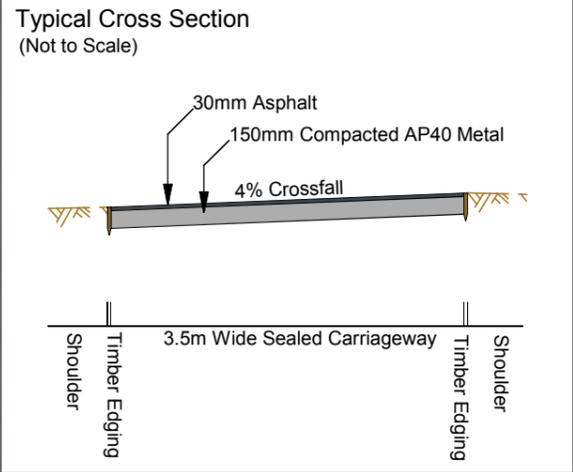


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Prepared For:



ATTACHMENT B - EASEMENT PLAN



- NOTES:**
- 1) Areas and dimensions are subject to survey.
 - 2) Both proposed easements are to be subject to:
 - Right of way
 - Right to convey water
 - Right to convey electricity
 - Right to drain sewage
 - Right to convey telecommunications and computer media
 - 4) © This work is copyright. If being reproduced, it must be reproduced in full. It may only be reproduced in part with the express approval of C. Hughes & Associates Ltd.

Amalgamation Condition:
Lot 1 hereon be amalgamated with Lots 3-4 DP 491433 and that one computer freehold register be issued to include all parcels.

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Lots 1 and 2 being a Subdivision of Lot 1 DP 491433
CM Trustees (2008) Ltd and S.J. & T.W. Hewson
Domain Road, Lake Hawea

ISSUE	AMMENDMENTS	DATE
A	ROW, amalg. cond., easements	04/09/18
B	reduced reserve easement	21/09/18
C	edit reserve easement	26/10/18
D		
E		

Scale: **1: 300 (A3)**
Datum: -

Job No: **5727**
Plan No: **W1040** Drawn: **TD**
Date: **August 2018**